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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 ULISES BENITES PAREDES,
12 Petitioner,
13 v.
14 BRIAN E. WILLIAMS, et al.,
15 Respondents.
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Case No. 2:21-cv-02232-RFB-BNW

ORDER

17 The Federal Public Defender has filed a notice of appearance on petitioner's behalf (ECF
18 No. 7). The court will formally appoint the Federal Public Defender and set a briefing schedule.

19 IT THEREFORE IS ORDERED that the Federal Public Defender is appointed as counsel
20 for petitioner pursuant to 18 U.S.C. § 3006A(a)(2)(B). Counsel will represent petitioner in all
21 federal proceedings related to this matter, including any appeals or certiorari proceedings, unless
22 allowed to withdraw.

23 IT FURTHER IS ORDERED that petitioner will have until up to and including 120 days
24 from entry of this order within which to file an amended petition and/or seek other appropriate
25 relief. Neither the foregoing deadline nor any extension thereof signifies or will signify any implied
26 finding as to the expiration of the federal limitation period and/or of a basis for tolling during the
27 time period established. Petitioner always remains responsible for calculating the running of the
28 federal limitation period and timely asserting claims, without regard to any deadlines established

1 or extensions granted herein. That is, by setting a deadline to amend the petition and/or by granting
2 any extension thereof, the court makes no finding or representation that the petition, any
3 amendments thereto, and/or any claims contained therein are not subject to dismissal as untimely.
4 See Sossa v. Diaz, 729 F.3d 1225, 1235 (9th Cir. 2013).

5 IT FURTHER IS ORDERED that respondents must file a response to the amended petition,
6 including potentially by motion to dismiss, within 60 days of service of the amended petition and
7 that petitioner may file a reply within 30 days of service of an answer. The response and reply time
8 to any motion filed by either party, including a motion filed in lieu of a pleading, will be governed
9 instead by Local Rule LR 7-2(b).

10 IT FURTHER IS ORDERED that any procedural defenses raised by respondents to the
11 counseled amended petition must be raised together in a single consolidated motion to dismiss. In
12 other words, the court does not wish to address any procedural defenses raised herein either in serial
13 fashion in multiple successive motions to dismiss or embedded in the answer. Procedural defenses
14 omitted from such motion to dismiss will be subject to potential waiver. Respondents must not file
15 a response in this case that consolidates their procedural defenses, if any, with their response on the
16 merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking
17 merit. If respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they must
18 do so within the single motion to dismiss not in the answer; and (b) they must specifically direct
19 their argument to the standard for dismissal under § 2254(b)(2) set forth in Cassett v. Stewart, 406
20 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses, including exhaustion, must be
21 included with the merits in an answer. All procedural defenses, including exhaustion, instead must
22 be raised by motion to dismiss.

23 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents must
24 specifically cite to and address the applicable state court written decision and state court record
25 materials, if any, regarding each claim within the response as to that claim.

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1 IT FURTHER IS ORDERED that, notwithstanding Local Rule LR IC 2-2(g), paper copies
2 of any electronically filed exhibits need not be provided to chambers or to the staff attorney, unless
3 later directed by the court.

4 DATED: March 6, 2022.



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6 RICHARD F. BOULWARE, II
United States District Judge
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